

## UNITED STATES DISTRICT COURT

for the

Eastern District of North Carolina

United States of America )

v. )

David Elijah Smith )

Date of Previous Judgment: )

(Use Date of Last Amended Judgment if Applicable) )

Case No: 7:93-CR-16-1BO

USM No: 14702-056

Defendant's Attorney Pro Se

FILED IN OPEN COURT **UR**  
 ON 7/28/2010  
 Dennis P. Iavarone, Clerk  
 US District Court  
 Eastern District of NC

**Order Regarding Motion for Sentence Reduction Pursuant to 18 U.S.C. § 3582(c)(2)**

Upon motion of the \_\_\_\_\_ defendant \_\_\_\_\_ under 18 U.S.C. § 3582(c)(2) for a reduction in the term of imprisonment imposed based on a guideline sentencing range that has subsequently been lowered and made retroactive by the United States Sentencing Commission pursuant to 28 U.S.C. § 994(u), and the court having considered such motion,

**IT IS ORDERED** that the motion is:

☐ DENIED. ☒ GRANTED and the defendant's previously imposed sentence of imprisonment (as reflected in the last judgment issued) of 360 months **is reduced to** 292 months in Count 7. **292 - YWA**

If the amount of time the defendant has already served exceeds this sentence, the sentence is reduced to a "Time Served" sentence, subject to an additional period of up to ten (10) days for administrative purposes of releasing the defendant.

**I. COURT DETERMINATION OF GUIDELINE RANGE** (Prior to Any Departures)Previous Offense Level: 37Amended Offense Level: 35Criminal History Category: VICriminal History Category: VIPrevious Guideline Range: 360 to 480 monthsAmended Guideline Range: 292 to 365 months**II. SENTENCE RELATIVE TO AMENDED GUIDELINE RANGE**

- ☒ The reduced sentence is within the amended guideline range.  
☐ The previous term of imprisonment imposed was less than the guideline range applicable to the defendant at the time of sentencing as a result of a departure or Rule 35 reduction, and the reduced sentence is comparably less than the amended guideline range.

☐ Other (explain) :

**III. ADDITIONAL COMMENTS**

The reduction is applicable to Count 7 only. The terms of imprisonment in Counts 2, 4 and 6 are not impacted.

Except as provided above, all provisions of the judgment dated October 29, 1997

shall remain in effect.

**IT IS SO ORDERED.**Order Date: 7/28/2010

*Terrence W. Boyle*  
 Judge's signature

Effective Date: \_\_\_\_\_  
 (if different from order date)

The Honorable Terrence W. Boyle, US District Judge  
 Printed name and title